

## REMARKS/ARGUMENTS

### **Claim Status**

Claims 1 and 3-9 are pending. Claim 1 is amended to include the subject matter of original claim 2; accordingly, claim 2 has been canceled. Claims 1 and 3 have been amended for grammatical purposes and to improve readability. Claims 4-7 have been amended to remove dependency from now canceled claim 2. No new matter has been entered.

### **Specification Objection**

The specification of the current application has been objected to and “a substitute specification in proper idiomatic English” is requested.

Applicants point out MPEP 608.01 which states:

“The specification is a written description of the invention and of the manner and process of making and using the same. The specification must be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention pertains to make and use the same. See 35 U.S.C. 112 and 37 CFR 1.71. If a newly filed application obviously fails to disclose an invention with the clarity required by 35 U.S.C. 112, revision of the application should be required. See MPEP § 702.01.” (emphasis added).

As the current specification enables one skilled in the art to make and use the invention disclosed therein and since the Office has not pointed to any section of the current specification which allegedly does not enable one skilled in the art, “a substitute specification in proper idiomatic English” is not warranted. Applicants respectfully request withdrawal of this objection.

### **Double Patenting**

Applicants respectfully request that this rejection be held in abeyance until the present application is in condition for allowance for the following reasons. A terminal disclaimer can

be filed, if the claims in the present application remain obvious in view of the claims of U.S. patent application 10/511,099 and U.S. patent 7,109,283 at the time of allowance of the present application. Furthermore, additional amendments (if needed for allowance of these claims) may eliminate the double-patenting rejection, making the filing of a Terminal Disclaimer at this time premature. Indeed, M.P.E.P. § 804.02 IV states that, prior to issuance, it is necessary to disclaim each one of the double patenting references applied. Hence, Applicants respectfully request that the examiner contact the undersigned should the present amendments and arguments be accepted and should the present application be otherwise in condition for allowance. At that time, a terminal disclaimer if warranted can be supplied to expedite issuance of this case.

### **§103(a) Rejection**

Claims 1-9 are rejected under 35 U.S.C. §103(a) as obvious in view of *Momose* (US 5,718,835). Applicants respectfully traverse this rejection.

*Momose* discloses a heat storage composition prepared by mixing a heat storage component with a component comprising a thermoplastic elastomer and synthetic or natural rubber wherein the heat storage component comprises a wax and/or a higher monohydroxy alcohol (Abstract). Additionally, *Momose* discloses “normal alpha-olefins” (e.g., hexadecen-1, octadecen-1, eicosen-1) as a possible wax component among other possibilities such as paraffin wax, normal paraffin, wax and micro-crystalline wax (col. 3, lines 41-62).

*Momose* does not disclose or suggest Applicants’ claimed composition comprising:

20 to 100 % by weight of a heat storage material,  
80 to 0 % by weight of a crystalline polyolefin (B), and  
50 to 0 % by weight of an elastomer (C),  
wherein the heat storage material comprises a side chain-crystalline polymer  
(A) that is a higher  $\alpha$ -olefin polymer (a) comprising 50 mole % or more of  $\alpha$ -olefin  
having 10 or more carbon atoms [see claim 1].

The claimed composition comprises at least 20% by weight of the heat storage material comprising the side chain-crystalline polymer (A). The specification explains how an amount less than 20% results in a reduced heat storage amount per unit volume and diminished overall performance of the heat storage composition (page 12, lines 20-25).

In contrast, not only is *Momose* silent with respect to any express disclosure of content limitations with respect to the “normal alpha-olefins”, but it appears that *Momose* also does not include any such olefins in any of the exemplified embodiments. Therefore, in view of *Momose*’s lack of exemplary embodiments including the olefins, not only would one skilled in the art not consider the olefins to be an essential component to the heat storage material but one could also not determine an effective amount of such olefins (e.g., at least 20%). Accordingly, *Momose* does not render obvious Applicants’ claims.

Furthermore, in view of *Momose*’s sparse disclosure with respect to olefins, one skilled in the art would not have expected the incorporation of olefins like those claimed to provide a heat storage composition that is less sticky, resistant to decomposition and high-temperature vaporization, exhibits decreased bleeding, shows a large melting heat capacity, and improved workability and processability at the melting point of the composition due to improved stability (e.g., lack of fragility) (See Tables 3-5 and pages 86-90). Therefore, *Momose* does not render obvious Applicants’ claims.

Accordingly, Applicants request withdrawal of the rejection in view of *Momose*.

Additionally, it should be noted that the Office has not addressed dependent claims 4-9 that predominantly further define the specific nature of the claimed “higher  $\alpha$ -olefin polymer”. *Momose*’s sparse disclosure with respect to olefins would not allow “the skilled artisan, following the teachings of the reference, to achieve the instantly claimed invention” as alleged by the Office (page 4). Contrary to the Office’s position, *Momose*’s lack of use of such olefins as the heat storage material and lack of any further disclosure of the desired

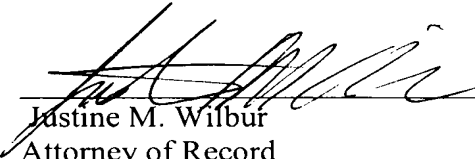
characteristics of the olefins (e.g., M2, Mw, T1, X1, Wm, etc.) would not lead one skilled in the art to achieve the instantly claimed invention and the resulting benefits. Accordingly, the Office has not met its burden with respect to a showing of obviousness with respect to all claims and all claimed limitations therein; therefore a prima facie case of obviousness does not exist with respect to dependent claims 4-9. Accordingly, Applicants request withdrawal of these rejections.

### **Conclusion**

For the reasons discussed above, Applicants submit that all now-pending claims are in condition for allowance. Applicants respectfully request the withdrawal of the rejections and passage of this case to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon

  
\_\_\_\_\_  
Justine M. Wilbur  
Attorney of Record  
Registration No. 59,678

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)